

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
2019 FEB 22 PM 2:00

Chambers of
Ellen Lipton Hollander
District Court Judge

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Baltimore, Maryland 21201
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February 22, 2019

MEMORANDUM TO COUNSEL

Re: *Mayor & City Council of Baltimore v. Trump et al.*
Civil Action No. ELH-18-3636

Dear Counsel:

As you know, on November 28, 2018, the Mayor and City Council of Baltimore (the "City") filed suit against President Donald J. Trump, in his official capacity; the U.S. State Department; and Michael R. Pompeo, in his official capacity as Secretary of State. ECF 1. The City alleges, *inter alia*, that the State Department's changes to the Department's Foreign Affairs Manual violate the Administrative Procedures Act, 5 U.S.C. § 706(2)(A), (D), and the Fifth Amendment. *Id.*

Defendants appear to have been served on December 3, 2018. ECF 10, ¶¶ 2-3. However, defendants assert in an unrelated filing that the City did not properly serve the defendants. ECF 12 at 2 n. 1. Fed. R. Civ. P. 4(i)(1)(A)(ii) provides that a party suing the United States must send a copy of the summons and the complaint "by registered or certified mail to the civil-process clerk at the United States attorney's office." But, the City sent copies of the complaint and summons to the U.S. Attorney for the District of Maryland, not the civil-process clerk. ECF 12 at 2 n.1; *see* ECF 10, ¶¶ 2-3.

The City maintains that its service on the defendants was sufficient even if it was not specifically addressed to the clerk. ECF 13 at 5-6 n. 3. In any event, the City asserts that it "sent a second mailing addressed to the civil-process clerk on December 19, 2018[.]" *Id.* at 5-6 n. 3. It claims the mailing was delivered the next day. *Id.*

Under Rule 12(a)(2), the defendants' response to the complaint is due 60 days after service on the U.S. Attorney. Assuming, *arguendo*, that defendants were not properly served until December 20, 2018, their response was due no later than February 18, 2019. However, as of this date, defendants have not filed a responsive pleading. *See* Docket.

Accordingly, by February 28, 2019, defendants shall file a responsive pleading or show cause for failing to do so.

Despite the informal nature of this Memorandum, it is an Order of the Court, and the Clerk is directed to docket it as such.

Very truly yours,

/s/

Ellen Lipton Hollander
United States District Judge